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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,888	03/27/2000	George McBride	CARDIOBEAT-3	3981

7590 02/12/2004

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EXAMINER	
QURESHI, SHABANA	
ART UNIT	**PAPER NUMBER**
2155	13

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/535,888	MCBRIDE ET AL.	
	Examiner	Art Unit	
	Shabana Qureshi	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2000*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 December 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Drawings

This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings. In unusual circumstances, the formal drawings from the abandoned parent application may be transferred by the grant of a petition under 37 CFR 1.182.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,264,614 issued to David Albert et al. in view of U.S. Patent 6,602,469 issued to Christopher T. Maus et al.

As per claim 1, Albert et al teach a method of operating an Internet device, comprising:

- downloading via the Internet a medical testing program from a server (column 4, lines 1-4), the medical testing program being utilized to provide non-invasive cardiovascular function related test measurement data (column 6, lines 1-35);
- coupling at least one non-invasive sensor to the Internet device, the at least one sensor being non-invasively coupled to and disposed on a patient to obtain impedance test measurement data (column 2, lines 44-66; column 6, lines 1-9);

- executing the test program to obtain the test measurement data from the at least one sensor (column 8, lines 20-36);
- automatically uploading the test measurement data to the server via the Internet (column 7, lines 58-67; column 8, lines 1-4 and lines 20-36);
- automatically analyzing the test measurement data at the server to provide cardiac function test data (column 9, lines 4-7);
- storing the test measurement data and the cardiac function test data for the patient in a database accessible by the server (column 11, lines 20-34);
- operating on the test measurement data to produce substantially real time waveforms of the cardiac function test data (column 9, lines 4-7); and;
- displaying the processed cardiac function test data (column 7, lines 27-38).
- maintaining a history of test measurement data and cardiac function test data for the patient (column 9, lines 21-27); and
- receiving processed cardiac function test data from the server as a download from the server via the Internet (column 3, lines 48-57; column 1, lines 41-52).

Albert et al do not explicitly teach utilizing a trending algorithm on the history to develop a medical condition trend for the patient as claimed.

However, Maus et al discloses claimed utilizing a trending algorithm on the history to develop a medical condition trend for the patient (column 4, lines 14-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Albert et al by employing the trending algorithm of Maus et al, because the combination would allow patients to monitor their cardiac health and encourage

them to improve their cardiac health, reduce medical costs, and health insurance rates (Maus et al, column 3, lines 16-30).

As per claims 2 and 3, Albert et al teach a method in accordance with claim 1. However, Albert et al do not explicitly teach the execution of an instructional guide that maybe downloaded from the server via the Internet. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include and instructional guide in the device taught by Albert et al because any health device, in order to measure health data accurately, must be used correctly by the patient. As there is no supervision of a medical professional, the medical device must provide an thorough instructional guide.

As per claim 4, Maus et al teach a method in accordance with claim 1 comprising:

- executing a data verification program on the Internet device prior to uploading the test measurement data to verify operation of the at least one sensor (column 4, lines 55-67).

As per claim 5, Maus et al teach a method in accordance with claim 4, comprising:

- downloading the verification program from the server via the Internet (column 4, lines 55-67).

As per claim 6, Albert et al teach a method in accordance with claim 1. However, Albert et al does not teach that the internet device comprises:

- un-installing the medical testing program from the Internet device upon completion of a testing sequence.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that software programs may include an un-install functionality so that the program may be removed from the Internet device when it is no longer needed. Therefore, it

would have been obvious to one of ordinary skill in the art to combine this functionality to the software program of Maus et al.

As per claim 7, Maus et al teach a method in accordance with claim 1, comprising:

- utilizing an encryption program to encrypt the test measurement data (column 8, lines 25-67).

As per claim 8, Maus et al teach a method in accordance with claim 1, comprising:

- temporarily storing the encryption program in a memory of the Internet device (column 8, lines 25-67).

As per claim 9, Maus et al teach a method -in accordance with claim 8, comprising:

- storing a testing measurement portion of the medical testing program for execution by the Internet device (column 4, lines 30-45) ;
- storing a test diagnostic portion of the medical testing program in the memory for execution (column 3, lines 1-15);
- storing a verification portion of the medical testing program in the memory for execution (column 4, lines 55-67); and
- storing an encryption portion of the medical testing program in the memory for execution (column 8, lines 25-67).

Maus et al do not specify that there is an uninstall feature comprised in the Internet device. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that software programs may include an un-install functionality so that the program may be removed from the Internet device when it is no longer needed. Therefore, it

would have been obvious to one of ordinary skill in the art to combine this functionality to the software program of Maus et al.

- storing an un-install portion of the medical testing program in the memory for execution.

As per claim 10, Albert et al teach a method in accordance with claim 1, comprising:

- downloading an impedance cardiography program as a part of the medical testing program (column 6, lines 1-35).

As per claim 11, Albert et al teach a method in accordance with claim 10, comprising:

- coupling a plurality of non-invasive sensors including the at least one non-invasive sensor to the Internet device, the plurality of non-invasive sensors being non-invasively coupled to and disposed on the patient (column 2, lines 44-67; column 6, lines 1-9).

As per claim 12, Albert et al teach a method in accordance with claim 11, comprising:

- utilizing the plurality of non-invasive sensors to obtain the impedance test measurement data (column 6, lines 1-35).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shabana Qureshi whose telephone number is (703) 308-6118. The examiner can normally be reached on Monday - Friday, 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shabana Qureshi
Examiner
Art Unit 2155

February 8, 2004

SHAHID ALAM
PRIMARY EXAMINER